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In re Application of :
IONESCU, Adrian F. :
U.S. Application No.: 10/595,415 :
PCT No.: PCT/US2004/034097 :
Int. Filing Date: 18 October 2004 :
Priority Date: 17 October 2003 :
Attorney Docket No.: 22148-00004-US2 :
For: BALLAST PROTECTING DEVICE :

DECISION

This is a decision on the declaration filed 13 April 2009.

BACKGROUND

On 21 January 2009, a decision granting applicant's petition to revive was mailed.

On 12 February 2009, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicant was given two months to respond with extensions of time available.

On 13 April 2009, applicant filed a response which was accompanied by, *inter alia*, a statement of facts and a declaration for the inventor executed by Mr. Louis F. Lindauer as President of Power Control Technologies, Inc., the purported assignee.

On 13 May 2009, the Office mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating that all 35 U.S.C. 371 requirements were completed on 13 April 2009.

DISCUSSION

The declaration signed for the deceased inventor by Mr. Lindauer is not appropriate. Applicants must provide a declaration executed by the legal representative (or heir) of the estate of the inventor, Adrian F. Ionescu.

As such, the Form PCT/DO/EO/903 and filing receipt mailed 13 May 2009 are both hereby **VACATED**.

The statement of facts submitted by Mr. Lindhaur states that no legal representative could be located. This statement would be appropriate pursuant to 37 CFR 1.47(b), if the legal representative was a known person. The statement is not acceptable to show that the legal representative (or heir) could not be located. The statement is acceptable as proof only to show that Mr. Lindauer could not determine whether Mr. Ionescu had a legal representative.

In this situation, petitioner must have a Romanian court locate the heir(s), or appoint a legal representative for the estate of the deceased inventor.

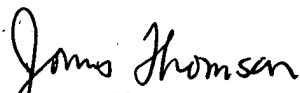
DECISION

For the reasons discussed above, the papers filed under 37 CFR 1.42 and/or 37 CFR 1.47(b) are **DISMISSED** without prejudice.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Applicant may wish to contact the undersigned to discuss this situation.

Any further correspondence with respect to this matter may be filed electronically using the USPTO EFS-Web or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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